

pose of carrying out the terms of the agreement or project of arrangement for the suppression of the whiteslave traffic, adopted July 25, 1902, for submission to their respective governments by the delegates of various powers represented at the Paris Conference and confirmed by a formal agreement signed at Paris on May 18, 1904, and adhered to by the United States on June 6, 1908, as shown by the proclamation of the President of the United States dated June 15, 1908, the Commissioner of Immigration and Naturalization is designated as the authority of the United States to receive and centralize information concerning the procurement of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declarations, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner of Immigration and Naturalization to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in this Act to the persons, respectively, making and filing them.

(June 25, 1910, ch. 395, § 6, 36 Stat. 826; Ex. Ord. No. 6166, § 14, June 10, 1933.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 25, 1910, ch. 395, 36 Stat. 825, known as the White Slave Traffic Act, which was classified to this section and to sections 397 to 404 of former Title 18, Criminal Code and Criminal Procedure. The act, except for the provision set out as this section, was repealed by act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted Title 18, Crimes and Criminal Procedure. See sections 2421 et seq. of Title 18.

CODIFICATION

Section was originally classified to section 402(1) of Title 18 prior to the general revision and enactment of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. Thereafter, it was classified to section 342f of Title 5 prior to enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378, and was subsequently classified to section 238 of this title prior to transfer to this section.

TRANSFER OF FUNCTIONS

Functions vested by law in Attorney General, Department of Justice, or any other officer or any agency of that Department, with respect to inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving United States, were to have been transferred to Secretary of the Treasury by 1973 Reorg. Plan No. 2, § 2, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, set out in the Appendix to Title 5, Government Organization and Employees. The transfer was negated by section 1(a)(1), (b) of Pub. L. 93-253, Mar. 16, 1974, 88 Stat. 50, which repealed section 2 of 1973 Reorg. Plan No. 2, eff. July 1, 1973.

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 24, 1950, 15

F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5. See sections 509 and 510 of Title 28, Judiciary and Judicial Procedure.

HISTORY OF IMMIGRATION AND NATURALIZATION AGENCIES

Ex. Ord. No. 6166, § 14, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees, consolidated the two formerly separate bureaus known as the Bureau of Immigration and the Bureau of Naturalization to form the Immigration and Naturalization Service under a Commissioner of Immigration and Naturalization. See note set out under section 1551 of this title.

CHAPTER 14—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Sec.
1601. Statements of national policy concerning welfare and immigration.

SUBCHAPTER I—ELIGIBILITY FOR FEDERAL BENEFITS

- 1611. Aliens who are not qualified aliens ineligible for Federal public benefits.
 - (a) In general.
 - (b) Exceptions.
 - (c) "Federal public benefit" defined.
- 1612. Limited eligibility of qualified aliens for certain Federal programs.
 - (a) Limited eligibility for specified Federal programs.
 - (b) Limited eligibility for designated Federal programs.
- 1613. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.
 - (a) In general.
 - (b) Exceptions.
 - (c) Application of term Federal means-tested public benefit.
 - (d) SSI and medicaid benefits for certain Indians.
- 1614. Notification and information reporting.
- 1615. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the National School Lunch Act, the Child Nutrition Act of 1966, and certain other acts.
 - (a) School lunch and breakfast programs.
 - (b) Other programs.

SUBCHAPTER II—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

- 1621. Aliens who are not qualified aliens or non-immigrants ineligible for State and local public benefits.
 - (a) In general.
 - (b) Exceptions.
 - (c) "State or local public benefit" defined.
 - (d) State authority to provide for eligibility of illegal aliens for State and local public benefits.
- 1622. State authority to limit eligibility of qualified aliens for State public benefits.
 - (a) In general.
 - (b) Exceptions.
- 1623. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
 - (a) In general.
 - (b) Effective date.
- 1624. Authority of States and political subdivisions of States to limit assistance to aliens and to distinguish among classes of aliens in providing general cash public assistance.
 - (a) In general.

Sec.

- (b) Limitation.
1625. Authorization for verification of eligibility for State and local public benefits.

SUBCHAPTER III—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

1631. Federal attribution of sponsor's income and resources to alien.
- (a) In general.
 - (b) Duration of attribution period.
 - (c) Review of income and resources of alien upon reapplication.
 - (d) Application.
 - (e) Indigence exception.
 - (f) Special rule for battered spouse and child.
1632. Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs.
- (a) Optional application to State programs.
 - (b) Exceptions.

SUBCHAPTER IV—GENERAL PROVISIONS

1641. Definitions.
- (a) In general.
 - (b) Qualified alien.
 - (c) Treatment of certain battered aliens as qualified aliens.
1642. Verification of eligibility for Federal public benefits.
- (a) In general.
 - (b) State compliance.
 - (c) Authorization of appropriations.
 - (d) No verification requirement for non-profit charitable organizations.
1643. Statutory construction.
- (a) Limitation.
 - (b) Benefit eligibility limitations applicable only with respect to aliens present in United States.
 - (c) Not applicable to foreign assistance.
 - (d) Severability.
1644. Communication between State and local government agencies and Immigration and Naturalization Service.
1645. Qualifying quarters.
1646. Derivative eligibility for benefits.

§ 1601. Statements of national policy concerning welfare and immigration

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

- (1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.
- (2) It continues to be the immigration policy of the United States that—
 - (A) aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and
 - (B) the availability of public benefits not constitute an incentive for immigration to the United States.
- (3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.
- (4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this chapter, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

(Pub. L. 104-193, title IV, § 400, Aug. 22, 1996, 110 Stat. 2260.)

REFERENCES IN TEXT

This chapter, referred to in par. (7), was in the original "this title" meaning title IV of Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2260, as amended, which enacted this chapter, section 1183a of this title, and sections 611a and 1437y of Title 42, The Public Health and Welfare, amended section 1383 of this title, sections 32 and 6213 of Title 26, Internal Revenue Code, and sections 1436a and 1471 of Title 42, and enacted provisions set out as notes under section 1183a of this title and section 32 of Title 26. For complete classification of title IV to the Code, see Tables.

SUBCHAPTER I—ELIGIBILITY FOR FEDERAL BENEFITS

§ 1611. Aliens who are not qualified aliens ineligible for Federal public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsection (b) of this section, an alien who is not a qualified alien (as defined in section 1641 of this title) is not eligible for any Federal public benefit (as defined in subsection (c) of this section).

(b) Exceptions

(1) Subsection (a) of this section shall not apply with respect to the following Federal public benefits:

(A) Medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act [42 U.S.C. 1396b(v)(3)]) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the State plan approved under such title (other than the requirement of the receipt of aid or assistance under title IV of such Act [42 U.S.C. 601 et seq.], supplemental security income benefits under title XVI of such Act [42 U.S.C. 1381 et seq.], or a State supplementary payment).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Public health assistance (not including any assistance under title XIX of the Social

Security Act [42 U.S.C. 1396 et seq.] for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or any assistance under section 1926c of title 7, to the extent that the alien is receiving such a benefit on August 22, 1996.

(2) Subsection (a) of this section shall not apply to any benefit payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act [42 U.S.C. 433], to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act [42 U.S.C. 402(t)], or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before August 1996.

(3) Subsection (a) of this section shall not apply to any benefit payable under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] (relating to the medicare program) to an alien who is lawfully present in the United States as determined by the Attorney General and, with respect to benefits payable under part A of such title [42 U.S.C. 1395c et seq.], who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for such benefits.

(4) Subsection (a) of this section shall not apply to any benefit payable under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.] or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] to an alien who is lawfully present in the United States as determined by the Attorney General or to an alien residing outside the United States.

(c) "Federal public benefit" defined

(1) Except as provided in paragraph (2), for purposes of this chapter the term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

(Pub. L. 104-193, title IV, § 401, Aug. 22, 1996, 110 Stat. 2261; Pub. L. 105-33, title V, §§ 5561, 5565, Aug. 5, 1997, 111 Stat. 638, 639.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II, IV, XVI, XVIII, and XIX of the Act are classified generally to subchapters II (§ 401 et seq.), IV (§ 601 et seq.), XVI (§ 1381 et seq.), XVIII (§ 1395 et seq.), and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Part A of title XVIII of the Act is classified generally to part A (§ 1395c et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Housing Act of 1949, referred to in subsec. (b)(1)(E), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (b)(4), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (b)(4), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (c)(1), was in the original "this title" meaning title IV of Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2260, which enacted this chapter, section 1183a of this title, and sections 611a and 1437y of Title 42, The Public Health and Welfare, amended section 1383 of this title, sections 32 and 6213 of Title 26, Internal Revenue Code, and sections 1436a and 1471 of Title 42, and enacted provisions set out as notes under section 1183a of this title and section 32 of Title 26. For complete classification of title IV to the Code, see Tables.

Section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658, referred to in subsec. (c)(2)(A), means section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, which is contained in section 201 of Pub. L. 99-239, set out as a note under section 1901 of Title 48, Territories and Insular Possessions, and section 141 of the Compact of Free Association between the United States and the Government of Palau, which is contained in section 201 of Pub. L. 99-658, set out as a note under section 1931 of Title 48.

The Immigration and Nationality Act, referred to in subsec. (c)(2)(B), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1997—Subsec. (b)(3). Pub. L. 105-33, §5561(a), added par. (3).

Subsec. (b)(4). Pub. L. 105-33, §5561(b), added par. (4). Subsec. (c)(2)(A). Pub. L. 105-33, §5565, inserted before semicolon “, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS

Section 4723 of Pub. L. 105-33 provided that:

“(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There are available for allotments under this section for each of the 4 consecutive fiscal years (beginning with fiscal year 1998) \$25,000,000 for payments to certain States under this section.

“(b) STATE ALLOTMENT AMOUNT.—

“(1) IN GENERAL.—The Secretary of Health and Human Services shall compute an allotment for each fiscal year beginning with fiscal year 1998 and ending with fiscal year 2001 for each of the 12 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

“(2) DETERMINATION.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

“(c) USE OF FUNDS.—From the allotments made under subsection (b), the Secretary shall pay to each State amounts the State demonstrates were paid by the State (or by a political subdivision of the State) for emergency health services furnished to undocumented aliens.

“(d) STATE DEFINED.—For purposes of this section, the term ‘State’ includes the District of Columbia.

“(e) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and

represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.”

STUDY AND REPORT ON ALIEN STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE

Pub. L. 104-208, div. C, title V, §506, Sept. 30, 1996, 110 Stat. 3009-672, provided that:

“(a) GAO STUDY AND REPORT.—

“(1) STUDY.—The Comptroller General shall conduct a study to determine the extent to which aliens who are not lawfully admitted for permanent residence are receiving postsecondary Federal student financial assistance.

“(2) REPORT.—Not later than 1 year after the date of the enactment of this Act [Sept. 30, 1996], the Comptroller General shall submit a report to the appropriate committees of the Congress on the study conducted under paragraph (1).

“(b) REPORT ON COMPUTER MATCHING PROGRAM.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965 [20 U.S.C. 1091(p)].

“(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

“(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

“(B) The ratio of successful matches under the program to inaccurate matches.

“(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

“(c) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this section the term ‘appropriate committees of the Congress’ means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1183a, 1612, 1613, 1614, 1621, 1642 of this title.

§ 1612. Limited eligibility of qualified aliens for certain Federal programs

(a) Limited eligibility for specified Federal programs

(1) In general

Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 1641 of this title) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) Exceptions

(A) Time-limited exception for refugees and asylees

(i) SSI

With respect to the specified Federal program described in paragraph (3)(A), paragraph (1) shall not apply to an alien until 7 years after the date—

(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157];

(II) an alien is granted asylum under section 208 of such Act [8 U.S.C. 1158];

(III) an alien's deportation is withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208);

(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(V) an alien is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended).

(ii) Food stamps

With respect to the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to an alien until 5 years after the date—

(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157];

(II) an alien is granted asylum under section 208 of such Act [8 U.S.C. 1158];

(III) an alien's deportation is withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208);

(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(V) an alien is admitted to the United States as an Amerasian immigrant as described in clause (i)(V).

(B) Certain permanent resident aliens

Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]; and

(ii) (I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act [42 U.S.C. 401 et seq.] or can be credited with such qualifying quarters as provided under section 1645 of this title, and (II) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 1613 of this title) during any such period.

(C) Veteran and active duty exception

Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii) or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38.

(D) Transition for aliens currently receiving benefits

(i) SSI

(I) In general

With respect to the specified Federal program described in paragraph (3)(A), during the period beginning on August 22, 1996, and ending on September 30, 1998, the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits under such program as of August 22, 1996, and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) Redetermination criteria

With respect to any redetermination under subclause (I), the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under such program.

(III) Grandfather provision

The provisions of this subsection and the redetermination under subclause (I), shall only apply with respect to the benefits of an individual described in subclause (I) for months beginning on or after September 30, 1998.

(IV) Notice

Not later than March 31, 1997, the Commissioner of Social Security shall notify an individual described in subclause (I) of the provisions of this clause.

(ii) Food stamps

(I) In general

With respect to the specified Federal program described in paragraph (3)(B), ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on August 22, 1996, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.]. The State agency shall recertify the eli-

gibility of all such aliens during the period beginning April 1, 1997, and ending August 22, 1997.

(II) Recertification criteria

With respect to any recertification under subclause (I), the State agency shall apply the eligibility criteria for applicants for benefits under such program.

(III) Grandfather provision

The provisions of this subsection and the recertification under subclause (I) shall only apply with respect to the eligibility of an alien for a program for months beginning on or after the date of recertification, if on August 22, 1996, the alien is lawfully residing in any State and is receiving benefits under such program on August 22, 1996.

(E) Aliens receiving SSI on August 22, 1996

With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who is lawfully residing in the United States and who was receiving such benefits on August 22, 1996.

(F) Disabled aliens lawfully residing in the United States on August 22, 1996

With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

- (i) was lawfully residing in the United States on August 22, 1996; and
- (ii) is blind or disabled, as defined in section 1614(a)(2) or 1614(a)(3) of the Social Security Act [42 U.S.C. 1382c(a)(2), (3)].

(G) SSI exception for certain Indians

With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), section 1611(a) of this title and paragraph (1) shall not apply to any individual—

- (i) who is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1359) apply; or
- (ii) who is a member of an Indian tribe (as defined in section 450b(e) of title 25).

(H) SSI exception for certain recipients on the basis of very old applications

With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

- (i) who is receiving benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979; and
- (ii) with respect to whom the Commissioner of Social Security lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.

(3) “Specified Federal program” defined

For purposes of this chapter, the term “specified Federal program” means any of the following:

(A) SSI

The supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(B) Food stamps

The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977 [7 U.S.C. 2012(h)].

(b) Limited eligibility for designated Federal programs

(1) In general

Notwithstanding any other provision of law and except as provided in section 1613 of this title and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 1641 of this title) for any designated Federal program (as defined in paragraph (3)).

(2) Exceptions

Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) Time-limited exception for refugees and asylees

(i) Medicaid

With respect to the designated Federal program described in paragraph (3)(C), paragraph (1) shall not apply to an alien until 7 years after the date—

(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157];

(II) an alien is granted asylum under section 208 of such Act [8 U.S.C. 1158];

(III) an alien's deportation is withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104–208);

(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(V) an alien¹ admitted to the United States as an Amerasian immigrant as described in subsection (a)(2)(A)(i)(V) of this section until 5 years after the date of such alien's entry into the United States.

(ii) Other designated Federal programs

With respect to the designated Federal programs under paragraph (3) (other than

¹ So in original. Probably should be “alien is”.

subparagraph (C)), paragraph (1) shall not apply to an alien until 5 years after the date—

(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157];

(II) an alien is granted asylum under section 208 of such Act [8 U.S.C. 1158];

(III) an alien's deportation is withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208);

(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(V) an alien¹ admitted to the United States as an Amerasian immigrant as described in subsection (a)(2)(A)(i)(V) of this section until 5 years after the date of such alien's entry into the United States.

(B) Certain permanent resident aliens

An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]; and

(ii) (I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act [42 U.S.C. 401 et seq.] or can be credited with such qualifying quarters as provided under section 1645 of this title, and (II) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 1613 of this title) during any such period.

(C) Veteran and active duty exception

An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii) or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38.

(D) Transition for those currently receiving benefits

An alien who on August 22, 1996, is lawfully residing in any State and is receiving benefits under such program on August 22, 1996,

shall continue to be eligible to receive such benefits until January 1, 1997.

(E) Medicaid exception for certain Indians

With respect to eligibility for benefits for the program defined in paragraph (3)(C) (relating to the medicaid program), section 1611(a) of this title and paragraph (1) shall not apply to any individual described in subsection (a)(2)(G) of this section.

(F) Medicaid exception for aliens receiving SSI

An alien who is receiving benefits under the program defined in subsection (a)(3)(A) of this section (relating to the supplemental security income program) shall be eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) under the same terms and conditions that apply to other recipients of benefits under the program defined in such subsection.

(3) "Designated Federal program" defined

For purposes of this chapter, the term "designated Federal program" means any of the following:

(A) Temporary assistance for needy families

The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(B) Social services block grant

The program of block grants to States for social services under title XX of the Social Security Act [42 U.S.C. 1397 et seq.].

(C) Medicaid

A State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], other than medical assistance described in section 1611(b)(1)(A) of this title.

(Pub. L. 104-193, title IV, § 402, Aug. 22, 1996, 110 Stat. 2262; Pub. L. 104-208, div. C, title V, § 510, Sept. 30, 1996, 110 Stat. 3009-673; Pub. L. 105-18, title II, § 6005(a), June 12, 1997, 111 Stat. 191; Pub. L. 105-33, title V, §§ 5301-5302(b), 5303(a), (b), 5304, 5305(b), 5306(a), (b), 5562, 5563, Aug. 5, 1997, 111 Stat. 597, 598, 600-602, 638.)

REFERENCES IN TEXT

Section 243 of such Act, referred to in subsecs. (a)(2)(A)(i)(III), (ii)(III) and (b)(2)(A)(i)(III), (ii)(III), is section 243 of act June 27, 1952, which is classified to section 1253 of this title. Section 1253 of this title was amended generally by Pub. L. 104-208, div. C, title III, § 307(a), Sept. 30, 1996, 110 Stat. 3009-612, and, as so amended, no longer contains a subsec. (h). For effective date of section 307 of Pub. L. 104-208, see section 309 of Pub. L. 104-208, set out as an Effective Date of 1996 Amendments note under section 1101 of this title.

Section 501(e) of the Refugee Education Assistance Act of 1980, referred to in subsecs. (a)(2)(A)(i)(IV), (ii)(IV) and (b)(2)(A)(i)(IV), (ii)(IV), is section 501(e) of Pub. L. 96-422, as amended, which is set out in a note under section 1522 of this title.

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, referred to in subsec. (a)(2)(A)(i)(V), is section 101(e) [title V, § 584] of Pub. L. 100-202, Dec. 22, 1987, 101 Stat. 1329-183, as amended, which is set out as an Amerasian Immigration note under section 1101 of this title.

The 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, referred to in subsec. (a)(2)(A)(i)(V), is contained in Pub. L. 100-461, title II, Oct. 1, 1988, 102 Stat. 2268-15, as amended, which is set out as an Amerasian Immigration note under section 1101 of this title.

The Immigration and Nationality Act, referred to in subsecs. (a)(2)(B)(i) and (b)(2)(B)(i), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

The Social Security Act, referred to in subsecs. (a)(2)(B)(ii)(I), (3)(A) and (b)(2)(B)(ii)(I), (F), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II, XVI, XIX, and XX of the Act are classified generally to subchapters II (§401 et seq.), XVI (§1381 et seq.), XIX (§1396 et seq.) and XX (§1397 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food Stamp Act of 1977, referred to in subsec. (a)(2)(D)(ii)(I), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

Section 212(b) of Public Law 93-66, referred to in subsec. (a)(3)(A), is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

AMENDMENTS

1997—Subsec. (a)(2)(A). Pub. L. 105-33, §5302(a), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to an alien until 5 years after the date—

“(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

“(ii) an alien is granted asylum under section 208 of such Act; or

“(iii) an alien’s deportation is withheld under section 243(h) of such Act.”

Subsec. (a)(2)(A)(i)(III). Pub. L. 105-33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (a)(2)(A)(i)(V). Pub. L. 105-33, §5306(a)(1), added subcl. (V).

Subsec. (a)(2)(A)(ii)(III). Pub. L. 105-33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (a)(2)(A)(ii)(V). Pub. L. 105-33, §5306(a)(2), added subcl. (V).

Subsec. (a)(2)(C)(i). Pub. L. 105-33, §5563(c), inserted “, 1101, or 1301, or as described in section 107” after “section 101”.

Pub. L. 105-33, §5563(a), inserted “and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38” after “alienage”.

Subsec. (a)(2)(C)(iii). Pub. L. 105-33, §5563(b), inserted before period at end “or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38”.

Subsec. (a)(2)(D)(i)(I). Pub. L. 105-33, §5301(c)(1), substituted “September 30, 1998,” for “September 30, 1997,”.

Pub. L. 105-18, §6005(a)(1), substituted “September 30, 1997” for “the date which is 1 year after August 22, 1996”.

Subsec. (a)(2)(D)(i)(III). Pub. L. 105-33, §5301(c)(2), substituted “September 30, 1998” for “September 30, 1997,”.

Pub. L. 105-18, §6005(a)(2), substituted “September 30, 1997,” for “the date of the redetermination with respect to such individual”.

Subsec. (a)(2)(E). Pub. L. 105-33, §5301(a), added subpar. (E).

Subsec. (a)(2)(F). Pub. L. 105-33, §5301(b), added subpar. (F).

Subsec. (a)(2)(G). Pub. L. 105-33, §5303(a), added subpar. (G).

Subsec. (a)(2)(H). Pub. L. 105-33, §5304, added subpar. (H).

Subsec. (b)(2)(A). Pub. L. 105-33, §5302(b), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows:

“(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien’s entry into the United States.

“(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

“(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.”

Subsec. (b)(2)(A)(i)(III). Pub. L. 105-33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (b)(2)(A)(i)(V). Pub. L. 105-33, §5306(b)(1), added subcl. (V).

Subsec. (b)(2)(A)(ii)(III). Pub. L. 105-33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (b)(2)(A)(ii)(V). Pub. L. 105-33, §5306(b)(2), added subcl. (V).

Subsec. (b)(2)(C)(i). Pub. L. 105-33, §5563(c), inserted “, 1101, or 1301, or as described in section 107” after “section 101”.

Pub. L. 105-33, §5563(a), inserted “and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38” after “alienage”.

Subsec. (b)(2)(C)(iii). Pub. L. 105-33, §5563(b), inserted before period at end “or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38”.

Subsec. (b)(2)(E). Pub. L. 105-33, §5303(b), added subpar. (E).

Subsec. (b)(2)(F). Pub. L. 105-33, §5305(b), added subpar. (F).

1996—Subsec. (a)(2)(D)(ii)(I). Pub. L. 104-208 amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: “With respect to the specified Federal program described in paragraph (3)(B), during the period beginning on August 22, 1996, and ending on the date which is 1 year after August 22, 1996, the State agency shall, at the time of the recertification, recertify the eligibility of any individual who is receiving benefits under such program as of August 22, 1996, and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.”

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 5308 of title V of Pub. L. 105-33 provided that: “Except as otherwise provided, the amendments made by this subtitle [subtitle D (§§5301-5308) of title V of Pub. L. 105-33, enacting sections 1625 and 1646 of this title and amending this section and sections 1613, 1622, and 1641 of this title] shall be effective as if included in the enactment of title IV of the Personal Responsibility

ity and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193].”

Amendment by sections 5562 and 5563 of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

Section 6005(b) of Pub. L. 105-18 provided that: “The amendment made by subsection (a) [amending this section] shall be effective as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [this section].”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 510 of div. C of Pub. L. 104-208 provided that the amendment made by that section is effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1613, 1614, 1622, 1646 of this title; title 7 section 2016; title 42 sections 608, 609.

§ 1613. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit

(a) In general

Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d) of this section, an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term “qualified alien”.

(b) Exceptions

The limitation under subsection (a) of this section shall not apply to the following aliens:

(1) Exception for refugees and asylees

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157].

(B) An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158].

(C) An alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208).

(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(E) An alien admitted to the United States as an Amerasian immigrant as described in section 1612(a)(2)(A)(i)(V) of this title.

(2) Veteran and active duty exception

An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B) or the unmarried surviving spouse of an individual described in clause (i) or (ii)¹ who is deceased if the marriage fulfills the requirements of section 1304 of title 38.

(c) Application of term Federal means-tested public benefit

(1) The limitation under subsection (a) of this section shall not apply to assistance or benefits under paragraph (2).

(2) Assistance and benefits under this paragraph are as follows:

(A) Medical assistance described in section 1611(b)(1)(A) of this title.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act [42 U.S.C. 1751 et seq.].

(D) Assistance or benefits under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(E) Public health assistance (not including any assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.] for a parent or a child who would, in the absence of subsection (a) of this section, be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 1641 of this title).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq., 1101 et seq., 1134 et seq., 1135 et seq., 42 U.S.C. 2751 et seq.], and titles III, VII, and VIII of the Public Health Service Act [42 U.S.C. 241 et seq., 292 et seq., 296 et seq.].

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

¹ So in original. Probably should be “subparagraph (A) or (B)”.

(J) Benefits under the Head Start Act [42 U.S.C. 9831 et seq.].

(K) Benefits under the Job Training Partnership Act [29 U.S.C. 1501 et seq.].

(d) SSI and medicaid benefits for certain Indians

Notwithstanding any other provision of law, the limitations under section 1611(a) of this title and subsection (a) of this section shall not apply to an individual described in section 1612(a)(2)(G) of this title, but only with respect to the programs specified in subsections (a)(3)(A) and (b)(3)(C) of section 1612 of this title.

(Pub. L. 104-193, title IV, § 403, Aug. 22, 1996, 110 Stat. 2265; Pub. L. 105-33, title V, §§ 5302(c)(1), 5303(c), 5306(c), 5562, 5563, Aug. 5, 1997, 111 Stat. 599, 600, 602, 638.)

REFERENCES IN TEXT

Section 243 of such Act, referred to in subsec. (b)(1)(C), is section 243 of act June 27, 1952, which is classified to section 1253 of this title. Section 1253 of this title was amended generally by Pub. L. 104-208, div. C, title III, § 307(a), Sept. 30, 1996, 110 Stat. 3009-612, and, as so amended, no longer contains a subsec. (h). For effective date of section 307 of Pub. L. 104-208, see section 309 of Pub. L. 104-208, set out as an Effective Date of 1996 Amendments note under section 1101 of this title.

Section 501(e) of the Refugee Education Assistance Act of 1980, referred to in subsec. (b)(1)(D), is section 501(e) of Pub. L. 96-422, as amended, which is set out in a note under section 1522 of this title.

The National School Lunch Act, referred to in subsec. (c)(2)(C), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (c)(2)(D), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(2)(E), (F), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts B and E of title IV and title XIX of the Act are classified generally to parts B (§620 et seq.) and E (§670 et seq.) of subchapter IV and subchapter XIX (§1396 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(2)(H), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42. Titles V, IX, and X of the Act are classified generally to subchapters V (§1101 et seq.), IX (§1134 et seq.), and X (§1135 et seq.), respectively, of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (c)(2)(H), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles III, VII, and VIII of the Act are classified generally to subchapters II (§241 et seq.), V (§292 et seq.), and VI (§296 et seq.), respectively, of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(2)(I), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, which is classified generally to chapter 70 (§6301 et seq.) of

Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Head Start Act, referred to in subsec. (c)(2)(J), is subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (c)(2)(K), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

AMENDMENTS

1997—Subsec. (b)(1)(C). Pub. L. 105-33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (b)(1)(D). Pub. L. 105-33, §5302(c)(1)(A), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 105-33, §5306(c), added subpar. (E).

Subsec. (b)(2)(A). Pub. L. 105-33, §5563(c), inserted “, 1101, or 1301, or as described in section 107” after “section 101”.

Pub. L. 105-33, §5563(a), inserted “and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38” after “alienage”.

Subsec. (b)(2)(C). Pub. L. 105-33, §5563(b), inserted before period at end “or the unmarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38”.

Subsec. (d). Pub. L. 105-33, §5303(c), added subsec. (d).

Pub. L. 105-33, §5302(c)(1)(B), struck out heading and text of subsec. (d). Text read as follows: “The limitation under subsection (a) of this section shall not apply to refugee and entrant assistance activities, authorized by title IV of the Immigration and Nationality Act [8 U.S.C. 1521 et seq.] and section 501 of the Refugee Education Assistance Act of 1980, for Cuban and Haitian entrants as defined in section 501(e)(2) of the Refugee Education Assistance Act of 1980.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by sections 5302(c)(1), 5303(c), and 5306(c) of Pub. L. 105-33 effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5308 of Pub. L. 105-33, set out as a note under section 1612 of this title.

Amendment by sections 5562 and 5563 of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1183a, 1612, 1614, 1622, 1631, 1645 of this title; title 7 section 2016.

§ 1614. Notification and information reporting

Each Federal agency that administers a program to which section 1611, 1612, or 1613 of this title applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subchapter.

(Pub. L. 104-193, title IV, §404(a), Aug. 22, 1996, 110 Stat. 2267.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle A of title IV of Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2261, as amended, which enacted this subchapter and sections 611a and 1437y of Title 42, The Public Health and Welfare, and amended section 1383 of Title 42. For complete classification of this subtitle to the Code, see Tables.

§ 1615. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the National School Lunch Act, the Child Nutrition Act of 1966, and certain other acts

(a) School lunch and breakfast programs

Notwithstanding any other provision of this Act, an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) on the basis of citizenship, alienage, or immigration status.

(b) Other programs

(1) In general

Nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien, as defined in section 1641(b) of this title, benefits under programs established under the provisions of law described in paragraph (2).

(2) Provisions of law described

The provisions of law described in this paragraph are the following:

(A) Programs (other than the school lunch program and the school breakfast program) under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(B) Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(C) The Emergency Food Assistance Act of 1983 [7 U.S.C. 7501 et seq.].

(D) The food distribution program on Indian reservations established under section 2013(b) of title 7.

(Pub. L. 104-193, title VII, §742, Aug. 22, 1996, 110 Stat. 2307.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b)(1), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105, as amended, known as the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996”. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 1305 of Title 42, The Public Health and Welfare, and Tables.

The National School Lunch Act, referred to in subsecs. (a) and (b)(2)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(2)(A), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as

amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

Section 4 of the Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(B), is section 4 of Pub. L. 93-86, which is set out as a note under section 612c of Title 7, Agriculture.

The Emergency Food Assistance Act of 1983, referred to in subsec. (b)(2)(C), is title II of Pub. L. 98-8, Mar. 24, 1983, 97 Stat. 35, as amended, which is classified generally to chapter 102 (§7501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7501 of Title 7, and Tables.

CODIFICATION

Section was enacted as part of title VII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of title IV of that Act which comprises this chapter.

SUBCHAPTER II—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

§ 1621. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsections (b) and (d) of this section, an alien who is not—

(1) a qualified alien (as defined in section 1641 of this title),

(2) a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or

(3) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c) of this section).

(b) Exceptions

Subsection (a) of this section shall not apply with respect to the following State or local public benefits:

(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1396b(v)(3) of title 42) of the alien involved and are not related to an organ transplant procedure.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C)

are necessary for the protection of life or safety.

(c) “State or local public benefit” defined

(1) Except as provided in paragraphs (2) and (3), for purposes of this subchapter the term “State or local public benefit” means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General.

(3) Such term does not include any Federal public benefit under section 1611(c) of this title.

(d) State authority to provide for eligibility of illegal aliens for State and local public benefits

A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.

(Pub. L. 104-193, title IV, § 411, Aug. 22, 1996, 110 Stat. 2268; Pub. L. 105-33, title V, §§ 5565, 5581(b)(1), Aug. 5, 1997, 111 Stat. 639, 642.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a)(2) and (c)(2)(B), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658, referred to in subsec. (c)(2)(A), means section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, which is contained in section 201 of Pub. L. 99-239, set out as a note under section 1901 of Title 48, Territories and Insu-

lar Possessions, and section 141 of the Compact of Free Association between the United States and the Government of Palau, which is contained in section 201 of Pub. L. 99-658, set out as a note under section 1931 of Title 48.

AMENDMENTS

1997—Subsec. (c)(2)(A). Pub. L. 105-33, § 5565, inserted before semicolon “, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect”.

Subsec. (c)(3). Pub. L. 105-33, § 5581(b)(1), made technical amendment to reference in original act which appears in text as reference to section 1611(c) of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSE TO ILLEGAL ALIENS

Pub. L. 104-208, div. C, title V, § 502, Sept. 30, 1996, 110 Stat. 3009-671, provided that:

“(a) IN GENERAL.—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act [Sept. 30, 1996], all States may conduct pilot programs within their State to determine the viability, advisability, and cost-effectiveness of the State's denying driver's licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver's license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.

“(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1183a, 1625, 1632, 1642 of this title.

§ 1622. State authority to limit eligibility of qualified aliens for State public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsection (b) of this section, a State is authorized to determine the eligibility for any State public benefits of an alien who is a qualified alien (as defined in section 1641 of this title), a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for less than one year.

(b) Exceptions

Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) Time-limited exception for refugees and asylees

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157] until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158] until 5 years after the date of such grant of asylum.

(C) An alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208) until 5 years after such withholding.

(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 until 5 years after the alien is granted such status.

(E) An alien admitted to the United States as an Amerasian immigrant as described in section 1612(a)(2)(A)(i)(V) of this title.

(2) Certain permanent resident aliens

An alien who—

(A) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]; and

(B)(i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act [42 U.S.C. 401 et seq.] or can be credited with such qualifying quarters as provided under section 1645 of this title, and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 1613 of this title) during any such period.

(3) Veteran and active duty exception

An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B) or the unremarried surviving spouse of an individual described in clause (i) or (ii)¹ who is deceased if the marriage fulfills the requirements of section 1304 of title 38.

(4) Transition for those currently receiving benefits

An alien who on August 22, 1996, is lawfully residing in any State and is receiving benefits on August 22, 1996, shall continue to be eligible to receive such benefits until January 1, 1997.

(Pub. L. 104-193, title IV, § 412, Aug. 22, 1996, 110 Stat. 2269; Pub. L. 105-33, title V, §§ 5302(c)(2), 5306(d), 5562, 5563, 5581(b)(3), Aug. 5, 1997, 111 Stat. 599, 602, 638, 643.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a) and (b)(2)(A), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to

chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Section 243 of such Act, referred to in subsec. (b)(1)(C), is section 243 of act June 27, 1952, which is classified to section 1253 of this title. Section 1253 of this title was amended generally by Pub. L. 104-208, div. C, title III, §307(a), Sept. 30, 1996, 110 Stat. 3009-612, and, as so amended, no longer contains a subsec. (h). For effective date of section 307 of Pub. L. 104-208, see section 309 of Pub. L. 104-208, set out as an Effective Date of 1996 Amendments note under section 1101 of this title.

Section 501(e) of the Refugee Education Assistance Act of 1980, referred to in subsec. (b)(1)(D), is section 501(e) of Pub. L. 96-422, as amended, which is set out in a note under section 1522 of this title.

The Social Security Act, referred to in subsec. (b)(2)(B)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (b)(1)(C). Pub. L. 105-33, §5581(b)(3), substituted “withholding” for “with-holding”.

Pub. L. 105-33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (b)(1)(D). Pub. L. 105-33, §5302(c)(2), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 105-33, §5306(d), added subpar. (E).

Subsec. (b)(3)(A). Pub. L. 105-33, §5563(c), inserted “, 1101, or 1301, or as described in section 107” after “section 101”.

Pub. L. 105-33, §5563(a), inserted “and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38” after “alienage”.

Subsec. (b)(3)(C). Pub. L. 105-33, §5563(b), inserted before period at end “or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by sections 5302(c)(2) and 5306(d) of Pub. L. 105-33 effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5308 of Pub. L. 105-33, set out as a note under section 1612 of this title.

Amendment by sections 5562, 5563, and 5581(b)(3) of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

§ 1623. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits

(a) In general

Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

¹ So in original. Probably should be “subparagraph (A) or (B)”.

(b) Effective date

This section shall apply to benefits provided on or after July 1, 1998.

(Pub. L. 104–208, div. C, title V, §505, Sept. 30, 1996, 110 Stat. 3009–672.)

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which comprises this chapter.

§ 1624. Authority of States and political subdivisions of States to limit assistance to aliens and to distinguish among classes of aliens in providing general cash public assistance

(a) In general

Subject to subsection (b) of this section and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) Limitation

The authority provided for under subsection (a) of this section may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 1631 of this title) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

(Pub. L. 104–208, div. C, title V, §553, Sept. 30, 1996, 110 Stat. 3009–681.)

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which comprises this chapter.

§ 1625. Authorization for verification of eligibility for State and local public benefits

A State or political subdivision of a State is authorized to require an applicant for State and local public benefits (as defined in section 1621(c) of this title) to provide proof of eligibility.

(Pub. L. 104–193, title IV, §413, as added Pub. L. 105–33, title V, §5307(a), Aug. 5, 1997, 111 Stat. 602.)

EFFECTIVE DATE

Section effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5308 of Pub. L.

105–33, set out as an Effective Date of 1997 Amendment note under section 1612 of this title.

SUBCHAPTER III—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

§ 1631. Federal attribution of sponsor's income and resources to alien

(a) In general

Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as provided under section 1613 of this title), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act [8 U.S.C. 1183a] (as added by section 423 and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) Duration of attribution period

Subsection (a) of this section shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act [8 U.S.C. 1421 et seq.]; or

(2)(A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act [42 U.S.C. 401 et seq.] or can be credited with such qualifying quarters as provided under section 1645 of this title, and (B) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 1613 of this title) during any such period.

(c) Review of income and resources of alien upon reappliation

Whenever an alien is required to reapply for benefits under any Federal means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a) of this section.

(d) Application

(1) If on August 22, 1996, a Federal means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after August 22, 1996.

(2) If on August 22, 1996, a Federal means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after August 22, 1996.

(e) Indigence exception**(1) In general**

For an alien for whom an affidavit of support under section 213A of the Immigration

and Nationality Act [8 U.S.C. 1183a] has been executed, if a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

(2) Determination described

A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

(f) Special rule for battered spouse and child

(1) In general

Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) of this section shall not apply to benefits—

(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, or (iii) the alien is a child whose parent (who resides in the same household as the alien child) has been battered or subjected to extreme cruelty in the United States by that parent's spouse, or by a member of the spouse's family residing in the same household as the parent and the spouse consented to, or acquiesced in, such battery or cruelty, and the battery or cruelty described in clause (i), (ii), or (iii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to re-

view by any court) has a substantial connection to the need for the benefits.

(2) Limitation

The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.

(Pub. L. 104-193, title IV, § 421, Aug. 22, 1996, 110 Stat. 2270; Pub. L. 104-208, div. C, title V, §§ 551(b)(1), 552, Sept. 30, 1996, 110 Stat. 3009-679, 3009-680; Pub. L. 105-33, title V, § 5571(d), Aug. 5, 1997, 111 Stat. 641.)

REFERENCES IN TEXT

Section 213A of the Immigration and Nationality Act (as added by section 423 and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), referred to in subsec. (a)(1), is section 1183a of this title as added by section 423 of Pub. L. 104-193 and amended by section 551(a) of div. C of Pub. L. 104-208.

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Chapter 2 of title III of the Act is classified generally to part II (§1421 et seq.) of subchapter III of chapter 12 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (f)(1)(A). Pub. L. 105-33 struck out “or” before “(ii) the alien's child” and substituted “or (iii) the alien is a child whose parent (who resides in the same household as the alien child) has been battered or subjected to extreme cruelty in the United States by that parent's spouse, or by a member of the spouse's family residing in the same household as the parent and the spouse consented to, or acquiesced in, such battery or cruelty, and the battery or cruelty described in clause (i), (ii), or (iii)” for “and the battery or cruelty described in clause (i) or (ii)”.

1996—Subsec. (a)(1). Pub. L. 104-208, § 551(b)(1), inserted “and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996” after “section 423”.

Subsecs. (e), (f). Pub. L. 104-208, § 552, added subsecs. (e) and (f).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 551(b)(1) of Pub. L. 104-208 applicable to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days, and not later than 90 days after the date the Attorney General formulates the form for such affidavits, see section 551(c) of Pub. L. 104-208, set out as an Effective Date of 1996 Amendment; Promulgation of Form note under section 1183a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1624, 1641 of this title.

§ 1632. Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs

(a) Optional application to State programs

Except as provided in subsection (b) of this section, in determining the eligibility and the amount of benefits of an alien for any State public benefits, the State or political subdivision that offers the benefits is authorized to provide that the income and resources of the alien shall be deemed to include—

- (1) the income and resources of any individual who executed an affidavit of support pursuant to section 1183a of this title (as added by section 423 and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) on behalf of such alien, and
- (2) the income and resources of the spouse (if any) of the individual.

(b) Exceptions

Subsection (a) of this section shall not apply with respect to the following State public benefits:

- (1) Assistance described in section 1621(b)(1) of this title.
- (2) Short-term, non-cash, in-kind emergency disaster relief.
- (3) Programs comparable to assistance or benefits under the National School Lunch Act [42 U.S.C. 1751 et seq.].
- (4) Programs comparable to assistance or benefits under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].
- (5) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.
- (6) Payments for foster care and adoption assistance.
- (7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General of a State, after consultation with appropriate agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(Pub. L. 104-193, title IV, § 422, Aug. 22, 1996, 110 Stat. 2271; Pub. L. 104-208, div. C, title V, § 551(b)(1), Sept. 30, 1996, 110 Stat. 3009-679; Pub. L. 105-33, title V, § 5581(b)(2), Aug. 5, 1997, 111 Stat. 643.)

REFERENCES IN TEXT

Section 1183a of this title (as added by section 423 and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), re-

ferred to in subsec. (a)(1), is section 1183a of this title as added by section 423 of Pub. L. 104-193 and amended by section 551(a) of div. C of Pub. L. 104-208.

The National School Lunch Act, referred to in subsec. (b)(3), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(4), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-33 struck out “(as defined in section 1622(c) of this title)” after “public benefits” in introductory provisions.

1996—Subsec. (a)(1). Pub. L. 104-208 inserted “and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996” after “section 423”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 applicable to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days, and not later than 90 days after the date the Attorney General formulates the form for such affidavits, see section 551(c) of Pub. L. 104-208, set out as an Effective Date of 1996 Amendment; Promulgation of Form note under section 1183a of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1641. Definitions

(a) In general

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)].

(b) Qualified alien

For purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.],
- (2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],
- (3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157],
- (4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year,
- (5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208),

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7)] as in effect prior to April 1, 1980;¹ or

(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

(c) Treatment of certain battered aliens as qualified aliens

For purposes of this chapter, the term “qualified alien” includes—

(1) an alien who—

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) has been approved or has a petition pending which sets forth a prima facie case for—

(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. 1154(a)(1)(A)(ii), (iii), (iv)],

(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [8 U.S.C. 1154(a)(1)(B)(ii), (iii)],

(iii) cancellation of removal under section 240A of such Act [8 U.S.C. 1229b] (as in effect prior to April 1, 1997),

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C. 1154(a)(1)(A)(i)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [8 U.S.C. 1154(a)(1)(B)(i)];²

(v) cancellation of removal pursuant to section 240A(b)(2) of such Act [8 U.S.C. 1229b(b)(2)];

(2) an alien—

(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(3) an alien child who—

(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent’s spouse or by a member of the spouse’s family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General’s sole and unreviewable discretion) for purposes of this subsection and section 1631(f) of this title, concerning the meaning of the terms “battery” and “extreme cruelty”, and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual’s need for benefits under a specific Federal, State, or local program.

(Pub. L. 104–193, title IV, § 431, Aug. 22, 1996, 110 Stat. 2274; Pub. L. 104–208, div. C, title III, § 308(g)(8)(E), title V, § 501, Sept. 30, 1996, 110 Stat. 3009–624, 3009–670; Pub. L. 105–33, title V, §§ 5302(c)(3), 5562, 5571(a)–(c), 5581(b)(6), (7), Aug. 5, 1997, 111 Stat. 599, 638, 640, 643.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title” meaning title IV of Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2260, which enacted this chapter, section 1183a of this title, and sections 611a and 1437y of Title 42, The Public Health and Welfare, amended section 1383 of this title, sections 32 and 6213 of Title 26, Internal Revenue Code, and sections 1436a and 1471 of Title 42, and enacted provisions set out as notes under section 1183a of this title and section 32 of Title 26. For complete classification of title IV to the Code, see Tables.

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Section 243 of such Act, referred to in subsec. (b)(5), is section 243 of act June 27, 1952, which is classified to section 1253 of this title. Section 1253 of this title was amended generally by Pub. L. 104–208, div. C, title III, § 307(a), Sept. 30, 1996, 110 Stat. 3009–612, and, as so amended, no longer contains a subsec. (h). For effective date of section 307 of Pub. L. 104–208, see section 309 of Pub. L. 104–208, set out as an Effective Date of 1996 Amendments note under section 1101 of this title.

Section 203(a)(7) of such Act as in effect prior to April 1, 1980, referred to in subsec. (b)(6), means section 203(a)(7) of act June 27, 1952, which was classified to section 1153(a)(7) of this title. Section 1153(a)(7) of this title was repealed and section 1153(a)(8) was redesignated section 1153(a)(7) by Pub. L. 96–212, title II,

¹ So in original. The semicolon probably should be a comma.

² So in original. The semicolon probably should be “, or”.

§ 203(c)(3), (6), Mar. 17, 1980, 94 Stat. 107, effective Apr. 1, 1980.

Section 501(e) of the Refugee Education Assistance Act of 1980, referred to in subsec. (b)(7), is section 501(e) of Pub. L. 96-422, as amended, which is set out in a note under section 1522 of this title.

AMENDMENTS

1997—Subsec. (b)(5). Pub. L. 105-33, § 5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208)” for “section 243(h) of such Act”.

Subsec. (b)(7). Pub. L. 105-33, § 5302(c)(3), added par. (7).

Subsec. (c). Pub. L. 105-33, § 5571(b), inserted at end “After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General’s sole and unreviewable discretion) for purposes of this subsection and section 1631(f) of this title, concerning the meaning of the terms ‘battery’ and ‘extreme cruelty’, and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual’s need for benefits under a specific Federal, State, or local program.”

Subsec. (c)(1)(A). Pub. L. 105-33, § 5571(a), substituted “agency providing such benefits)” for “Attorney General, which opinion is not subject to review by any court)”.

Subsec. (c)(1)(B)(iii). Pub. L. 105-33, § 5581(b)(7)(A), substituted “(as in effect prior to April 1, 1997),” for “, or”.

Subsec. (c)(1)(B)(v). Pub. L. 105-33, § 5581(b)(7)(B), added cl. (v).

Subsec. (c)(2)(A). Pub. L. 105-33, § 5571(a), substituted “agency providing such benefits)” for “Attorney General, which opinion is not subject to review by any court)”.

Subsec. (c)(2)(B). Pub. L. 105-33, § 5581(b)(6), substituted “subparagraph (B) of paragraph (1)” for “clause (ii) of subparagraph (A)”.

Subsec. (c)(3). Pub. L. 105-33, § 5571(c), added par. (3). 1996—Subsec. (c). Pub. L. 104-208, § 501, added subsec. (c).

Subsec. (c)(1)(B)(iii). Pub. L. 104-208, § 308(g)(8)(E), substituted “cancellation of removal under section 240A of such Act” for “suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 5302(c)(3) of Pub. L. 105-33 effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5308 of Pub. L. 105-33, set out as a note under section 1612 of this title.

Amendment by sections 5562, 5571(a)–(c), 5581(b)(6), (7) of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(g)(8)(E) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

Amendment by section 501 of Pub. L. 104-208 effective Sept. 30, 1996, see section 591 of Pub. L. 104-208, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1367, 1611, 1612, 1613, 1615, 1622 of this title.

§ 1642. Verification of eligibility for Federal public benefits

(a) In general

(1) Not later than 18 months after August 22, 1996, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 1611(c) of this title), to which the limitation under section 1611 of this title applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1320b-7 of title 42. Not later than 90 days after August 5, 1997, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall issue interim verification guidance.

(2) Not later than 18 months after August 22, 1996, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 1611(c) of this title) to provide proof of citizenship in a fair and nondiscriminatory manner.

(3) Not later than 90 days after August 5, 1997, the Attorney General shall promulgate regulations which set forth the procedures by which a State or local government can verify whether an alien applying for a State or local public benefit is a qualified alien, a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or an alien paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act [8 U.S.C. 1182(d)(5)] for less than 1 year, for purposes of determining whether the alien is ineligible for benefits under section 1621 of this title.

(b) State compliance

Not later than 24 months after the date the regulations described in subsection (a) of this section are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

(d) No verification requirement for nonprofit charitable organizations

Subject to subsection (a) of this section, a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 1611(c) of this title) or any State or local public benefit (as defined in section 1621(c) of this title), is not required under this chapter to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.

(Pub. L. 104-193, title IV, § 432, Aug. 22, 1996, 110 Stat. 2274; Pub. L. 104-208, div. C, title V, §§ 504,

508, Sept. 30, 1996, 110 Stat. 3009–672, 3009–673; Pub. L. 105–33, title V, § 5572(a), Aug. 5, 1997, 111 Stat. 641.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (a)(3), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–33, § 5572(a)(1), inserted at end “Not later than 90 days after August 5, 1997, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall issue interim verification guidance.”

Subsec. (a)(3). Pub. L. 105–33, § 5572(a)(2), added par. (3).

1996—Subsec. (a). Pub. L. 104–208, § 504, designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 104–208, § 508, added subsec. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5582 of Pub. L. 105–33, set out as a note under section 1367 of this title.

§ 1643. Statutory construction

(a) Limitation

(1) Nothing in this chapter may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this chapter, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this chapter may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under *Plyler v. Doe* (457 U.S. 202)(1982).

(b) Benefit eligibility limitations applicable only with respect to aliens present in United States

Notwithstanding any other provision of this chapter, the limitations on eligibility for benefits under this chapter shall not apply to eligibility for benefits of aliens who are not residing, or present, in the United States with respect to—

(1) wages, pensions, annuities, and other earned payments to which an alien is entitled resulting from employment by, or on behalf of, a Federal, State, or local government agency which was not prohibited during the period of such employment or service under section 274A [8 U.S.C. 1324a] or other applicable provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]; or

(2) benefits under laws administered by the Secretary of Veterans Affairs.

(c) Not applicable to foreign assistance

This chapter does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by

the Secretary of State in consultation with the Attorney General.

(d) Severability

If any provision of this chapter or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this chapter and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(Pub. L. 104–193, title IV, § 433, Aug. 22, 1996, 110 Stat. 2275; Pub. L. 105–33, title V, § 5574, Aug. 5, 1997, 111 Stat. 642.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1997—Subsecs. (b) to (d). Pub. L. 105–33 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5582 of Pub. L. 105–33, set out as a note under section 1367 of this title.

§ 1644. Communication between State and local government agencies and Immigration and Naturalization Service

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

(Pub. L. 104–193, title IV, § 434, Aug. 22, 1996, 110 Stat. 2275.)

§ 1645. Qualifying quarters

For purposes of this chapter, in determining the number of qualifying quarters of coverage under title II of the Social Security Act [42 U.S.C. 401 et seq.] an alien shall be credited with—

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien before the date on which the alien attains age 18, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under paragraph (1) or (2) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under section 1613 of this title) during the period for which such qualifying quarter of coverage is so

credited. Notwithstanding section 6103 of title 26, the Commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this chapter.

(Pub. L. 104-193, title IV, § 435, Aug. 22, 1996, 110 Stat. 2275; Pub. L. 105-33, title V, § 5573, Aug. 5, 1997, 111 Stat. 641.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1997—Pub. L. 105-33, § 5573(a), inserted at end “Notwithstanding section 6103 of title 26, the Commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this chapter.”

Par. (1). Pub. L. 105-33, § 5573(b), substituted “before the date on which the alien attains age 18,” for “while the alien was under age 18.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Respon-

sibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1612, 1622, 1631 of this title.

§ 1646. Derivative eligibility for benefits

Notwithstanding any other provision of law, an alien who under the provisions of this chapter is ineligible for benefits under the food stamp program (as defined in section 1612(a)(3)(B) of this title) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 1612(a)(3)(A) of this title).

(Pub. L. 104-193, title IV, § 436, as added Pub. L. 105-33, title V, § 5305(a), Aug. 5, 1997, 111 Stat. 601.)

EFFECTIVE DATE

Section effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5308 of Pub. L. 105-33, set out as an Effective Date of 1997 Amendment note under section 1612 of this title.